

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

J&R PASSMORE, LLC <i>et al.</i>,	:	
	:	
Plaintiffs,	:	Case No. 2:18-cv-01587
	:	
v.	:	Chief Judge Algenon L. Marbley
	:	
RICE DRILLING D, LLC <i>et al.</i>,	:	Magistrate Judge Kimberly A. Jolson
	:	
Defendants.	:	

OPINION & ORDER


This matter is before this Court on the Unopposed Motion to Withdraw (ECF No. 439) the Motion for Partial Summary Judgment (ECF No. 154) and the Joint Motion to Amend Scheduling Order (ECF No. 440).

On July 8, 2020, Plaintiffs filed a Motion for Partial Summary Judgment as to Counts I and II. The deadline for Defendants' responsive briefing on the Motion for Partial Summary Judgment was extended to twenty-one days after this Court's ruling on the Motion for Class Certification. On March 28, 2023, this Court issued an Opinion & Order (O&O) denying Plaintiffs' Motion to Certify a Class Action. (ECF No. 437). Plaintiffs then filed an unopposed Motion to Withdraw their Motion for Partial Summary Judgment (ECF No. 154) and Continue Oral Argument citing developments including this Court's class certification decision and a companion Ohio state court case, which Plaintiffs argue deals with the interpretation of the same lease form. (ECF No. 439 at 2). Subsequently, the parties filed a Joint Motion to Amend the Scheduling Order. Both parties request that the deadline for filing motions for summary judgment be postponed. Plaintiffs request that all motions for summary judgment be filed sixty (60) days after a final determination on the appeal of *TERA, LLC v. Rice Drilling D, LLC, et al.*, Ohio Supreme Court Case No. 2023-0411,

the companion state court case. (ECF No. 440 at 2). Conversely, Defendants request that this Court reset the motion for summary judgment deadline for sixth (60) days after entry of an order on the pending summary judgment motion in *TERA II, LLC, et al. v. Rice Drilling D LLC, et al.*, No. 2:19-cv-2221, which is also before this Court. (*Id.* at 3).

Given the significant developments in this matter and this Court's power to control the disposition of the cases on its docket, *see Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936), this Court **GRANTS** the Unopposed Motion to Withdraw the Motion for Partial Summary Judgment (ECF No. 439). As such, the Motion for Partial Summary Judgment (ECF No. 154) is **WITHDRAWN**. Additionally, upon a motion by plaintiffs in *TERA II*—a substantially related case before this Court—this Court denied a stay pending resolution of *TERA, LLC* by the Ohio Supreme Court. *TERA II, et al., v. Rice Drilling D, LLC, et al.*, Case No. 2:19-cv-2221, ECF No. 483. In conformity with this Court's ruling in *TERA II* and to keep forward momentum in these cases, this Court **GRANTS in part, DENIES in part** the parties' Joint Motion to Amend Scheduling Order. (ECF No. 440). All motions for summary judgment are to be filed no later than **sixty (60) days** after this Court's entry of an opinion and order on the pending summary judgment motions in *TERA II LLC, et al. v. Rice Drilling D LLC, et al.*, No. 2:19-cv-2221. The oral argument scheduling order is **VACATED**. (ECF No. 438).

IT IS SO ORDERED.



ALGENON L. MARBLEY
UNITED STATES CHIEF DISTRICT JUDGE

DATE: April 21, 2023